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July 5, 2012

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The Honorable Robert B. Kugler  
United States District Court for the District of New Jersey  
Mitchell H. Cohen Building and U.S. Courthouse  
4th & Cooper Streets Room 1050  
Camden, New Jersey 08101

**Re: Sciele Pharma, Inc., et al. v. Lupin Ltd., et al., Civil No. 09-037-RBK-JS**

Dear Judge Kugler:

Together with Kelley Drye & Warren LLP and Sterns and Weinroth P.C., we represent the Lupin defendants in the above-captioned litigation. We write in response to the letter from the Mylan defendants asking the Court to place the above-captioned litigations on its trial calendar for March 2013.

The litigation against Lupin over its generic competitor to the Fortamet product was consolidated for pre-trial purposes only by Magistrate Judge Schneider with the similar case against the Mylan defendants. It is not clear that the cases will or should be consolidated for trial. The Lupin defendants have demanded a jury trial, but no jury demand can be made in the Mylan case because there has been no claim for money damages.

Lupin takes no position now on whether the case against Mylan should be set for a separate trial on the Court's March 2013 trial calendar. We do believe, however, that March 2013 is not a realistic trial date for the case against Lupin. Fact discovery is still ongoing.

Active disputes are pending before Magistrate Judge Schneider concerning the scope of the parties' document productions. Depositions of fact witnesses have only recently started. Expert discovery is yet to get underway. Judge Schneider has scheduled a court conference for July 13, 2013, to discuss pending discovery disputes as well as the proposed modifications to the discovery schedule.





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The parties - including Mylan - have submitted to Judge Schneider a joint proposal for a revised discovery schedule; a copy is attached for the Court's convenience. That schedule - which the Lupin defendants noted may be too optimistic - calls for dispositive motions to be filed at the end of January 2013. With such a schedule, there is serious question whether those motions can be fully briefed and decided in time for a March 2013 trial, even if a further extension of the discovery schedule is not needed.

Accordingly, Lupin asks that the trial in its case not be set for the March 2013 calendar.

Respectfully submitted,

*/s/ Stephen B. Braerman*  
Stephen B. Braerman (sb4952)

cc: Hon. Joel Schneider  
All counsel  
Enclosure